

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 MYRIAM ZAYAS,

12 Plaintiff,

13 v.

14 ROBERT ENSLEE,

15 Defendant.

16 CASE NO. 3:24-cv-05346-TL

17 ORDER OF DISMISSAL WITH
18 LEAVE TO AMEND

19 This case arises from Plaintiff Myriam Zayas's claims regarding collection of Title IV-E
20 funding on behalf of her children. This matter is before the Court on its own motion. Having
21 reviewed Plaintiff's Complaint, the Court finds that Plaintiff fails to state a claim upon which
22 relief may be granted and therefore DISMISSES WITHOUT PREJUDICE Plaintiff's Complaint with
23 leave to file an amended complaint.

24 On May 6, 2024, Plaintiff filed an application to proceed *in forma pauperis* ("IFP") in
this action. Dkt. No. 1. Plaintiff's application for IFP status was granted, but U.S. Magistrate

1 Judge Grady J. Leupold specifically noted that “based on the allegations in the proposed
 2 Complaint, it does not appear Plaintiff has adequately stated a claim.” Dkt. No. 4. Plaintiff’s
 3 Complaint was subsequently filed on the docket. Dkt. No. 5.

4 The Court’s authority to grant IFP status derives from 28 U.S.C. § 1915. Per the statute,
 5 the Court must dismiss a case if the IFP Plaintiff fails to state a claim upon which relief may be
 6 granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); *see also Lopez v. Smith*, 203 F.3d 1122, 1129 (9th
 7 Cir. 2000) (“[S]ection 1915(e) applies to all in forma pauperis complaints, not just those filed by
 8 prisoners”). “The legal standard for dismissing a complaint for failure to state a claim under
 9 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as when ruling on dismissal under Federal Rule of
 10 Civil Procedure 12(b)(6).” *Day v. Florida*, 2014 WL 1412302, at *4 (W.D. Wash. Apr. 10, 2014)
 11 (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6) requires courts to assume the truth of factual
 12 allegations and credit all reasonable inferences arising from those allegations. *Sanders v. Brown*,
 13 504 F.3d 903, 910 (9th Cir. 2007). Plaintiff must provide sufficient factual details in the
 14 complaint to “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550
 15 U.S. 544, 570 (2007). Where a plaintiff proceeds *pro se* (without an attorney), courts must
 16 construe the complaint liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir.
 17 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)). However, a court “should not
 18 supply essential elements of the [*pro se*] claim that were not initially pled.” E.g., *Henderson v.
 19 Anderson*, 2019 WL 3996859, at *1 (W.D. Wash. Aug. 23, 2019) (internal citation and quotation
 20 omitted); *see also Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019)
 21 (“[C]ourts should not have to serve as advocates for *pro se* litigants.” (quoting *Noll v. Carlson*,
 22 809 F.2d 1446, 1448 (9th Cir. 1987))).

23 Here, Plaintiff’s complaint lacks sufficient factual detail to plausibly state a claim.
 24 Plaintiff specifically asserts federal question jurisdiction under 42 U.S.C. § 1983, which allows

1 claims alleging the “deprivation of any rights, privileges, or immunities secured by the
 2 Constitution and [federal laws].” Plaintiff claims, without providing any supporting details, that
 3 she has been deprived of her property without due process of law through the collection of Title
 4 IV-E funding on behalf of her children despite not having signed the relevant paperwork. *See*
 5 Dkt. No. 5 at 3–4. For example, Plaintiff does not provide any factual details as to the amount of
 6 money collected pursuant to Title IV-E, what paperwork she asserts needed to be signed in order
 7 for the government to collect Title IV-E funding and which of that paperwork she did not sign, or
 8 whether any of her children are currently in Title IV-E foster care. *See generally* Dkt. No. 5.

9 Again, without providing any factual details to support her claims, Plaintiff asserts that
 10 Defendant “has committed, and/or is committing, acts of fraud and forgery in relation to filing
 11 claims for federal funding by not having the required signature of the parents but filing
 12 anyway and collecting funds that are not for their intended purpose.” *Id.* at 5. Plaintiff further
 13 claims without any support that Defendant “remov[ed] my children just so DCYF employees can
 14 illegally gain access to funding.” *Id.* These conclusory statements are insufficient to state a claim
 15 without additional factual details.

16 To state a plausible claim for relief in federal court, a Plaintiff must “plead[] factual
 17 content that allows the court to draw the reasonable inference that the defendant is liable for the
 18 misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 672 (2009). Thus, “[t]hreadbare recitals of
 19 the elements of a cause of action, supported by mere conclusory statements” are insufficient. *Id.*
 20 Here, all Plaintiff offers are conclusory statements to support threadbare, and substantively
 21 incomplete, recitals of some elements of her claims. The Court, therefore, FINDS that Plaintiff
 22 fails to state a plausible claim for relief under 42 U.S.C. § 1983. For this reason, the Court must
 23 dismiss Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

1 Courts typically allow *pro se* plaintiffs to amend their complaints in lieu of dismissal.
2 *Yagman v. Garcetti*, 852 F.3d 859, 867 (9th Cir. 2017). The Court will therefore GRANT Plaintiff
3 leave to file an amended complaint in this case that sufficiently “pleads factual content,” *Iqbal*,
4 556 U.S. at 672, to state a plausible claim for relief by **no later than Friday, August 9, 2024**. If
5 Plaintiff fails to file an amended complaint by the deadline or if the amended complaint fails to
6 state a plausible claim for relief, the Court will dismiss this case in its entirety.

7
8 Dated this 3rd day of July 2024.

9
10 
11 Tana Lin
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24